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May 31, 2018

VIA E-FILING

Jocelyn G. Boyd, Esquire
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

Re: Procedural Schedule for Consolidated Docket Nos. 2017-207-E, 2017-305-E, and
2017-370-E

Dear Ms. Boyd:

This letter is the response of the South Carolina Office of Regulatory Staff ("ORS") to the procedural schedule proposed by the Public Service Commission of South Carolina ("the Commission") on May 24, 2018.

ORS respectfully submits that the dates proposed on May 24 do not permit adequate time for full disclosure of necessary discovery and for presentation of the evidence and issues by ORS for the Commission's decisions in the consolidated dockets. Specifically, the proposed schedule does not provide sufficient time for resolution of matters related to the parties, including ORS's, rights to documents and information¹ from South Carolina Electric and Gas Company ("SCE&G") and Dominion Energy, Inc. ("Dominion") (collectively the "Joint Applicants"). To date, the Joint Applicants have refused to comply with discovery obligations while asking the Commission not only to approve its proposed merger but also to allow recovery of billions of dollars for costs of the abandoned nuclear construction project.

At this time: (1) motions to compel discovery are outstanding; (2) the Joint Applicants have refused to provide ORS, or even allow ORS to view, SCE&G and Dominion documents until a new, more restrictive confidentiality agreement is signed;² and (3) the Joint Applicants are insisting that some documents be

¹ See S.C. Code Ann. §§ 58-4-50, 58-4-55, 58-27-160, 58-27-1570, 58-27-1580, and 58-33-277.

² ORS and SCE&G executed in 2009 a Master Nuclear Confidentiality Agreement that covers the Base Load Review Act ("BLRA") and nuclear construction. Aside from the 2009 Master Nuclear Confidentiality Agreement and another executed with Westinghouse in 2014, ORS is not a party to any other confidentiality agreement. The 2009 Confidentiality Agreement has been used by ORS and SCE&G for nine years and with all BLRA proceedings since 2009. In 2009 and during the nuclear construction, ORS recognized that cases and ORS duties under the BLRA are unlike others. During construction, ORS did not contest the assertion of protection for trade secrets and intellectual property. ORS also did not contest the assertion that procurement and bidding related to the construction should be

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made available only at SCE&G headquarters³ and that some cannot even be copied—these documents are for the abandoned project or required for the necessary approval of the proposed merger and should be provided to ORS for full disclosure.

The Joint Applicant's unilateral resistance to full discovery requires relief before any deadlines for testimony should be imposed on ORS because the Joint Applicants are withholding information and documents needed for a full and fair presentation of the evidence and issues for the Commission's decisions on the consolidated dockets. As a consequence, ORS and other parties cannot analyze and prepare the direct testimony or even the follow-up discovery that may be needed. ORS and the other parties need discovery from the Joint Applicants to provide the Commission with all the evidence and issues.

Importantly, most, if not all, of the relevant documents that are available now to ORS are being provided by a non-regulated entity. Instead, SCE&G, which is subject to full disclosure in these proceedings, should be the one providing full disclosure of documents. That is necessary for a full and fair presentation in the Consolidated Dockets and for ORS to fulfill its responsibilities. ORS needs the Commission to compel full disclosure by the Joint Applicants before ORS is required to present evidence on the issues that are before the Commission. The Joint Applicants are seeking approval of the proposed merger and affirmative relief of billions of dollars in abandonment costs recovery from ratepayers. For these reasons, the dates proposed on May 24 for the ORS and other parties testimony do not allow adequate time for discovery and presentation for the Commission's benefit and for the Commission's resolution of discovery issues needed for testimony preparation.

Instead, ORS proposes the following dates for the three consolidated dockets:

Activity	Dates
Joint Applicants Direct Testimony Due	Tuesday, July 3, 2018
ORS and Other Parties Direct Testimony Due	Tuesday, September 18, 2018
Joint Applicants Rebuttal Testimony Due	Tuesday, October 16, 2018
ORS and Other Parties Sur-Rebuttal Testimony Due	Friday, October 26, 2018
Hearing For Public Testimony Only – Day and Night	Thursday, November 1, 2018
Hearing Resume Date	Monday, November 5, 2018
Proposed Orders Due	Friday, November 30, 2018
Order Due	Friday, December 21, 2018

The above dates propose a single set of testimony to address all three consolidated dockets to provide efficient case management and judicial economy. The Commission recognized the common issues among the three dockets in Order No. 2018-80, which consolidated all three dockets. Docket No. 2017-370-E contains a proposal for merger along with a request for recovery of abandoned nuclear costs, and

confidential. However, after abandonment of the construction, the need for the protection has ceased as this Commission has recognized with the Engineering, Procurement, and Construction contract for the nuclear project. Commission Order No. 2017-337 in Docket No. 2017-138-E. While ORS has serious concerns about being further burdened by any confidentiality agreement at this point and given the already compressed schedule for a hearing and decision, there is no reason for a significantly more restrictive confidentiality agreement now that SCE&G has abandoned the project. Likewise, Dominion, which is voluntarily assuming rights and responsibilities of SCE&G in the proposed merger, can easily become subject to the existing 2009 Confidentiality Agreement.

³ Viewing documents at SCE&G's headquarters presents at least two significant burdens. To view these documents self-selected by the Joint Applicants to be made available only at SCE&G's headquarters, ORS's experts, who do not reside in the Midlands, must travel to Columbia just to view information to determine whether it is necessary for a decision on the Joint Applicants' requests for affirmative approvals and relief from the Commission, and thus will incur not only additional unnecessary expenses but also lost time for travel and still have to fight for copies to be used in testimony and presentations to the Commission.

Dockets No. 2017-207-E and 2017-305-E maintain efforts for rate relief in response to abandonment of the new nuclear construction. Any testimony provided by ORS for Docket No. 2017-305-E will be duplicated for Docket No. 2017-370-E.⁴ ORS anticipates this same duplication will occur for testimony provided by the Sierra Club and Friends of the Earth in Docket No. 2017-207-E. Specifically, the testimony in 2017-207-E and 2017-305-E is not expected to differ from that which would be provided in 2017-370-E.

In any event, the consolidation of testimony for all three dockets makes the schedule simpler and fairer. The May 24, 2018, proposed schedule provides unwarranted advantages to the Joint Applicants, which already have all the documents relevant to the relief being requested by all parties and have not made full disclosures. For example, not only would the Joint Applicants get advance testimony from ORS and the other parties that will be duplicated in the 2017-370-E docket under the May 24 proposed schedule, but the Joint Applicants would also have an additional month to prepare responses to those portions of ORS and other party testimony since the testimony will appear again in Docket No. 2017-370-E. The Joint Applicants should not benefit from refusing to make full disclosures, and ORS should not be placed at a disadvantage, particularly given its statutory responsibilities, particularly when SCE&G continues to collect revenues from ratepayers as if the nuclear construction were continuing. Last, the Commission should not require separate direct testimony for the Consolidated Docket Nos. 2017-305-E and 2017-207-E, which would create unnecessary duplication of the same testimony and provide an unfair advantage to the Joint Applicants.

ORS respectfully requests the Commission adopt the proposed schedule above with consolidated testimony in all three dockets and with an appropriate order for testimony first from the Joint Applicants. ORS also requests the Joint Applicants be held to their discovery obligations in a timely manner so the Commission may make its decisions on time and fully informed.

Sincerely,



Shannon B. Hudson

cc: Joseph M. Melchers, Esquire (via e-mail)
F. David Butler, Esquire (via e-mail)
All Parties of Record in Docket No. 2017-305-E (via e-mail)
All Parties of Record in Docket No. 2017-207-E (via e-mail)
All Parties of Record in Docket No. 2017-370-E (via e-mail)

⁴ Testimony is not required for Commission action in Docket No. 2017-305-E.